

Message Text

PAGE 01 NATO 03799 091901Z

71

ACTION EUR-25

INFO OCT-01 ISO-00 CIAE-00 PM-07 INR-10 L-03 ACDA-19

NSAE-00 PA-04 RSC-01 PRS-01 SP-03 USIA-15 TRSE-00

SAJ-01 OMB-01 SS-20 NSC-07 DRC-01 /119 W

----- 058047

R 091720Z JUL 74

FM USMISSION NATO

TO SECSTATE WASHDC 6680

SECDEF WASHDC

INFO JCS WASHDC

USCINCEUR VAIHINGEN GER

AMEMBASSY PARIS

NSE/NSSG BRUSSELS

C O N F I D E N T I A L USNATO 3799

E.O. 11652: GDS: 12-31-80

TAGS: NATO, XG, ETRN

SUBJ: SPECIAL REPORT BY NATO BOARD OF AUDITORS

DEFENSE FOR OASD/I&L, MR. NOLAN AND COMPT, MR. UMBARGER; STATE
FOR EUR/RPM, MR. REHFELD; JCS FOR J-4 PETROLEUM; USCINCEUR FOR
J-4 JPO, AMEMB PARIS FOR MR. HUMPHREYS; NSE/NSSG FOR MR. MINER.

REF: A. USNATO 3631

B. REPORT BY GROUP OF RAPORTEURS ON SPECIAL REPORT BY NATO BOARD
OF AUDITORS (AC/120-D/857 LIMITED DISTRIBUTION)

C. INITIAL US POSITION ON REPORT BY GROUP OF RAPORTEURS

BEGIN SUMMARY. MESSAGE HIGHLIGHTS PROPOSED US POSITION ON RAPORTEURS
REPORT ON SPECIAL REPORT BY NATO BOARD OF AUDITORS. RAPORTEURS
HAVE FAIRLY REPRESENTED POINTS OF VIEW OF PARTIES INVOLVED WHICH
CONCERN SPECIAL PAYMENTS AND AUDIT PROBLEMS. US POSITION CONCLUDES
THAT: (1) RETENTION OF SPECIAL PAYMENTS BY TRAPIL WAS IMPROPER;
(2) TRAPIL AND FRENCH SHOULD REIMBURSE CEPS FOR ADDITIONAL PROFITS
AND TAXES; (3) US CAN ACCEPT RAPORTEURS' CONCLUSIONS ON AUDIT
PROBLEMS. ACTION REQUESTED: WASHINGTON APPROVAL OR COMMENTS,
CONFIDENTIAL

PAGE 02 NATO 03799 091901Z

PRIOR TO 17 JULY, OF PROPOSED US POSITION AS OUTLINED BELOW AND
AS CONTAINED IN DETAIL IN INITIAL US POSITION PAPER. END SUMMARY.

1. INITIAL US POSITION PAPER (REF C) ON THE GROUP OF RAPORTEURS'

REPORT WAS POUCHED TO WASHINGTON 5 JULY. MISSION HAS SENT INITIAL POSITION PAPER TO CENTRAL EUROPE PIPELINE POLICY COMMITTEE (CEPPC) NATIONAL REPS. POSITION WILL BE MODIFIED AS NECESSARY IN ACCORDANCE WITH WASHINGTON COMMENTS AND GUIDANCE UPON RECEIPT. AS STATED IN REF A, MISSION PROVIDES HERewith COMMENTS HIGHLIGHTING PROPOSED US POSITION ON REPORT BY GROUP OF RAPPORTEURS (REF B), WHICH WAS POUCHED TO WASHINGTON ON 18 JULY.

2. THE RAPPORTEURS HAVE THOROUGHLY SET OUT BACKGROUND OF BOARD OF AUDIRORS' COMPLAINTS ABOUT SPECIAL PAYMENTS AND AUDIT PROBLEMS WITHIN THE CENTRAL EUROPE OPERATING AGENCY (CEOA). RAPPORTEURS HAVE FAIRLY REPRESENTED POINTS OF VIEW OF PARTIES INVOLVED.

3. SPECIAL PAYMENTS QUESTION.

A. QUESTION CONCERNING THE PROPRIETY OF PAYMENTS BY OIL COMPANIES DIRECTLY TO TRAPIL FOR TRANSPORT OF CIVIL PRODUCTS THROUGH THE CENTRAL EUROPE PIPELINE SYSTEM (CEPS) APPEARS TO REVOLVE AROUND MEANING OF CEPPC DECISION IN 1965. COMMITTEE AGREED TO PAY ONLY SIX PERCENT OF NET CIVIL REVENUE (AFTER DECUCTION OF FRENCH "PROFIT TAXES") TO TRAPIL AS PROFIT (TRAPIL HAD REQUESTED EIGHT PERCENT) AND DECIDED THAT "HARMONIZATION" OF TRAPIL'S PROFITS FROM CEPS MOVEMENTS WITH THAT FORM OTHER MOVEMENTS WAS THE CONCERN OF FRANCE. DECISION DOES NOT MAKE CLEAR WHETHER "HARMONIZATION" WAS TO BE EFFECTED THROUGH USE OF FRENCH NATIONAL FUNDS OR FUNDS WHICH ARE IN EFFECT A SURCHARGE ON THE TARIFF PAID BY THE CLIENT FOR USE OF THE CEPS. COMMITTEE'S REFUSAL TO AUTHORIZE EIGHT PERCENT IN PROFITS INDICATES DECISION NOT TO GIVE UP MORE THAN SIX PERCENT OF LEGITIMATE REVENUE FROM CEPS FOR SERVICE RENDERED BY TRAPIL, THUS ESTABLISHING PRIMA FACIE CASE FOR EFFECTING ANY "HARMONIZATION" THROUGH USE OF FRENCH NATIONAL FUNDS.

B. RAPPORTEURS, HOWEVER, CONSIDERED INITIAL EXTRA PAYMENT BY OIL COMPANIES (UNTIL MID-1968), WHICH MIGHT HAVE BEEN ACCEPTED BY CEPPC. SINCE ORIGINAL AGREEMENT WITH OIL COMPANIES
CONFIDENTIAL

PAGE 03 NATO 03799 091901Z

WHICH ESTABLISH SPECIAL PAYMENTS WAS NEVER MADE KNOWN TO CEPPC, IT IS NOT POSSIBLE TO ESTABLISH WHAT COMMITTEE'S REACTION MIGHT HAVE BEEN. FROM MID-1968 THE AMOUNT OF SPECIAL PAYMENTS MADE BY THE OIL COMPANIES TO TRAPIL WAS INCREASED, AGAIN WITHOUT NORIFICATION TO THE CEPPC. EVEN IF THE PROPRIETY OF THE INITIAL SPECIAL PAYMENTS AND THE OVERSIGHT WHICH PRECLUDED CEPPC NOTIFICATION CAN BE ACCEPTED, IT IS DIFFICULT TO ESTABLISH A CASE FOR THE HIGHER (AFTER MID-1968) PAYMENTS, PARTICULARLY WHEN THEY RESULT IN A "HARMONIZATION" OF TRAPIL'S PROFITS AT SOME TWENTY TWO PERCENT OF CEPS REVENUE INSTEAD OF THE PREVIOUSLY DISCUSSED SIX TO EIGHT PERCENT.

C. CALCULATION OF PROFIT PERCENTAGES ARE BASED ON FRENCH

STATEMENT THAT, HAD SPECIAL PAYMENTS NOT BEEN MADE TO TRAPIL, THE ADDITIONAL FUNDS WOULD NOT HAVE BEEN PAID BY THE COMPANIES TO CEPS. FRANCE, AS HOST NATION, HAS INSISTED ON RIGHT TO SET TARIFFS ON BASIS OF NATIONAL POLICY DESIGNED TO PRESERVE FAIR COMPETITIVE BALANCE AMONG THE VARIOUS OIL COMPANIES AND TO PREVENT OIL COMPANIES FROM SEEKING OTHER LESS COSTLY TRANSPORT MEANS. OIL COMPANIES APPARENTLY ACCEPTED TOTAL COST (TARIFF PLUS THE EXTRA PAYMENTS) AS FAIR PRICE FOR SERVICE PROVIDED AND WELL WITHIN "WHAT THE TRAFFIC WOULD BEAR", THIS ACCEPTANCE MAKES IMPLAUSIBLE THE REASONS WHICH THE FRENCH HAVE CONSISTENTLY ADVANCED FOR NOT OBTAINING HIGHER CIVIL MOVEMENT TARIFFS WHEN NEGOTIATIONS WERE CARRIED OUT WITH OIL COMPANIES.

D. OUR ANALYSIS OF DATA PROVIDED BY RAPPORTEURS INDICATES THAT FOR PERIOD 1967-74 COMPARING ACTUAL PAYMENTS WITH THOSE WHICH WOULD HAVE BEEN MADE UNDER A SIX PERCENT PROFIT SITUATION, CEPS ACTUALLY RECEIVED SOME SIXTEEN MILLION FFR LESS THAN IT MIGHT HAVE IN NET REVENUE, WHILE TRAPIL HAS RECEIVED AN ADDITIONAL 8.3 MILLION FFR AND THE FRENCH GOVERNMENT AN ADDITIONAL 7.4 MILLION FFR IN TAXES. THEREFORE, IN OUR VIEW, BOTH FRENCH GOVERNMENT AND TRAPIL HAVE HAD MATERIAL INTEREST IN MAINTAINING SPECIAL PAYMENTS AS MATTER BETWEEN OIL COMPANIES AND THEMSELVES. THE SUBJECT OF TAXES AND CONTRIBUTIONS TO CEPS DEFICIT BY NATIONS CONCERNED IS NOT ADDRESSED IN THIS CONNECTION SINCE IT WILL BE CONSIDERED DURING DISCUSSIONS OF NEW COST-SHARING ARRANGEMENTS.

4. REGARDING AUDIT PROBLEMS.

CONFIDENTIAL

PAGE 04 NATO 03799 091901Z

A. US CAN AGREE WITH WHAT IT BELIEVES RAPPORTEURS TO HAVE STATED IN THEIR REPORT, I.E., THAT THE BOARD OF AUDITORS MUST BE ALLOWED TO VERIFY TRAPIL'S ACCOUNTS RELATED TO THE CEPS. ONCE CEPPC DECIDES TO LIMIT TRAPIL'S PROFITS TO FIXED PERCENTAGES OF CEPS CIVIL REVENUES WITHOUT QUESTION OF "HARMONIZATION", THE BOARD WOULD NO LONGER REQUIRE ACCESS TO ACCOUNTS CONCERNED WITH NON-NATO TRAPIL BUSINESS.

B. IT APPEARS NECESSARY, HOWEVER, THAT SOMEONE (PERHAPS FRENCH COUR DES COMPTES) MUST CERTIFY THE PROPORTION OF TRAPIL EFFORTS FOR NATO OPERATIONS COMPARED WITH TRAPIL TOTAL EFFORT TO ESTABLISH PROPER OVERHEAD PAYMENT BY NATO. THE FRENCH AUDIT PROGRAM SHOULD THEREFORE BE ESTABLISHED BETWEEN THE FRENCH AUTHORITIES AND THE NATO BOARD OF AUDITORS, WITH THE NATO BOARD HAVING ACCESS TO THE AUDIT BY THE FRENCH AUTHORITIES. FYI. CEPPC REQUESTED MR. DREKERT OF THE NATO BOARD OF AUDITORS TO ATTEND JULY MEETING WHEN THIS SUBJECT WILL BE DISCUSSED. END FYI.

5. CONCLUSIONS

A. IN THE MATTER OF SPECIAL PAYMENTS, WE BELIEVE IT FAIR TO CONCLUDE THAT SPECIAL PAYMENTS, OR AT LEAST A MAJOR PART

THEREOF, WERE NEVER ACCEPTED BY CEPPC AND THEIR RETENTION BY TRAPIL WAS IMPROPER. THE CEPPC SHOULD DECIDE WHETHER SIX PERCENT OR EIGHT PERCENT CAN BE CONSIDERED AS REASONABLE PROFIT ON CEPC CIVIL MOVEMENTS. IN THIS DECISION THE FACT THAT NO CAPITAL INVESTMENT WAS MADE BY TRAPIL IS RELEVANT. ONCE HAVING ESTABLISHED SUCH A REASONABLE PROFIT, THE APPROPRIAT ARRANGEMENTS SHOULD BE REVISED ACCORDINGLY, SO THAT IN THE FUTURE ALL REVENUE FROM THE USE OF CEPS WILL BE REPORTED AND PROPERLY ACCOUNTED FOR. FINALLY, TRAPIL AND THE FRENCH AUTHORITIES SHOULD REIMBURSE THE CEPS FOR THOSE ADDITIONAL PROFITS AND TAXES RETAINED BY TRAPIL AND FRANCE.

B. IN THE MATTER OF AUDIT PROBLEMS, THE US CAN ACCEPT THE RAPPORTEURS' CONCLUSIONS IF THEY ARE INTERPRETED TO MEAN WHAT IS STATED IN PARAGRAPH 4.PRENDERGAST

CONFIDENTIAL

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 11 JUN 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 09 JUL 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974ATO03799
Document Source: ADS
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: 11652 GDS 12-31-80
Errors: n/a
Film Number: n/a
From: NATO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740788/abbrywbe.tel
Line Count: 178
Locator: TEXT ON-LINE
Office: n/a
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: A. USNATO 3631 B. REPORT BY GROUP OF RAPPOREURS ON SPECIAL REPORT BY NATO BOARD OF AUDITORS (AC/120-D/857 LIMITED DISTRIBUTION) C. INITIAL US POSITION ON REPORT BY GROUP OF RAPPOREURS
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 03 APR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <03 APR 2002 by worrelsw>; APPROVED <19 JUN 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SPECIAL REPORT BY NATO BOARD OF AUDITORS
TAGS: NATO, XG, ETRN
To: STATE
SECDEF INFO JCS
USCINCEUR VAIHINGEN GER
PARIS
NSE NSSG BRUSSELS
Type: TE

Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005